

Appl. No. 10/630,502
Docket No. P138
Amdt. dated April 23, 2008
Reply to Office Action mailed on January 24, 2008
Customer No. 27752

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REMARKS

Claim Status

Claims 1 – 27 are pending in the present application. No additional claims fee is believed to be due. Claims 1 – 18 have been withdrawn as a result of an earlier restriction requirement. Claims 19 – 27 have been rejected under 35 U.S.C. § 103. Claims 19 and 21 have been amended. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over De Boer and Mattson

Claims 19 – 27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over De Boer et al, (JP 02227051) (“De Boer”) in view of Mattson (US Patent No. 4,034,083). Applicants respectfully traverse this rejection.

Claim 19 is directed towards, *inter alia*, a composition comprising an amount of a polyol fatty acid polyester effective to increase fecal hair excretion or to treat a hairball in a mammal wherein the mammal is selected from the group consisting of cats and rabbits and wherein the composition is a nutritionally balanced composition selected from the group consisting of kibble compositions, high moisture compositions and semi-dry compositions. Claim 21 is directed towards, *inter alia*, a pet food composition comprising a polyol fatty acid polyester wherein the composition provides from about 0.001 to about 400 mg of the polyol fatty acid ester per kg body weight of the mammal, wherein the mammal is selected from the group consisting of cats and rabbits and wherein the pet food composition is a nutritionally balanced composition selected from the group consisting of kibble compositions, high moisture compositions and semi-dry compositions.

Obviousness is based on the following factual inquiries: 1) determining the scope and contents of the prior art; 2) ascertaining the differences between the prior art and the claims in issue; 3) resolving the level of ordinary skill in the pertinent art; and 4) evaluating evidence of secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). De Boer is directed to “application of nonfermentable dietary fiber as an archorrhea-preventing agent in low-calorie food products comprising an indigestible

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single-blend polyol fatty acid polyester." Page 6, para 3. Mattson is directed to "[p]olyol fatty acid polyesters having at least four fatty acid ester groups are fortified with fat-soluble vitamins and used in pharmaceutical compositions for treating and/or preventing hypercholesterolemia in animals, especially humans, and in low-calorie foods." *Abstract*. As best understood by Applicants, De Boer and Mattson are, therefore, directed to compositions for low calorie foods, reducing cholesterol and treating and/or preventing hypercholesterolemia. De Boer and Mattson, either alone or in combination, however, fail to teach the compositions of the current application.

The claims of the current application are directed to nutritionally balanced compositions for mammals, such as cats and rabbits, selected from the group consisting of kibble compositions, high moisture compositions and semi-dry compositions. De Boer discloses that "suitable low-calorie food products may include puff pastries, cakes, cake mixes, dough, biscuits, potato chips, candy finished goods, chocolate finished goods, meat snacks, hot dogs, sausages, hamburger, peanut butter, spreads, deep-fried finished goods, chips, potato chips, etc." Page 14, lines 2 – 6. Mattson discloses compositions such as gelatin capsules (Examples I, II, and III), low calorie, fat-containing salad oil (Example IV), plastic shortening (Example V), a vitamin-fortified margarine composition (Example VI), and a stool softening laxative (Example VII). As best understood by Applicants, neither De Boer or Mattson disclose the use of a polyol fatty acid polyester composition in a nutritionally balanced food selected from the group consisting of kibble compositions, high moisture compositions, and semi-dry compositions for consumption by a cat or rabbit.

Furthermore, as best understood by Applicants, neither De Boer or Mattson disclose that their compositions would be useful for mammals such as cats and rabbits. As already noted, De Boer and Mattson are focused on low-calorie foods, cholesterol and hypercholesterolemia. Neither De Boer or Mattson disclose the use of a composition comprising an amount of polyol fatty acid polyester effective to increase fecal hair excretion or treat a hairball. While the compositions of De Boer and Mattson may comprise polyol fatty acid polyesters, there is no disclosure in De Boer and Mattson, either alone or in combination, that would provide one of ordinary skill in the art with a reasonable expectation of success that a composition that is described as treating

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cholesterol and hypercholesterolemia would be beneficial for use in cats and rabbits for providing an increase in fecal hair excretion of treatment of hairballs.

Applicants respectfully request reconsideration and withdrawal of the rejection.

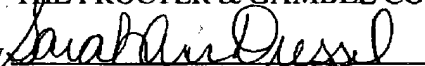
Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, entry of the amendments presented herein, reconsideration of this application and allowance of the pending claims are respectfully requested.

Respectfully submitted,

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Date: April 23, 2008
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